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Letter dated 16 July 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 23 April 2003 (S/2003/456).

The Counter-Terrorism Committee has received the attached third report from Algeria submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for this letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 10 July 2003 from the Permanent Representative of Algeria to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: French]

On instructions from my Government and further to your letter dated 11 April 2003, I have the honour to transmit to you herewith a supplementary report containing the response to the observations and questions of the Counter-Terrorism Committee concerning the second report submitted by Algeria on 15 August 2002, pursuant to paragraph 6 of resolution 1373 (2001) (see enclosure).

You will also find attached copies of the reports submitted by Algeria on the implementation of Security Council resolutions 1373 (2001), 1390 (2002) and 1455 (2003).

The Government of Algeria stands ready to provide the Committee with other reports or information that may be required or requested by the Committee.

(*Signed*) Abdallah **Baali**
Ambassador
Permanent Representative

Enclosure

Supplementary report submitted by Algeria to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

I. Implementation measures

1.2 Provisions for the freezing of funds serving as a basis for the action by courts and procedures applicable to the freezing of funds related to terrorism

The suppression of the financing of terrorist activities is one of the main tasks of the courts. The freezing of funds is a precautionary measure which the courts are empowered to take in accordance with the relevant provisions of the Penal Code relating to security measures. The Penal Code gives the courts the legal means for prompt and effective action with a view to the freezing or seizure of financial assets in the interest of the national community.

Article 87 *bis* of the Penal Code relating to crimes categorized as terrorist specifies the conditions for implementation of the law relating to terrorist activities or the commission of terrorist acts. The penalties are proportional to the seriousness of the act and the same applies to the seizure or confiscation of the object of the crime which is declared by judgement as reverting to the Treasury in accordance with article 93 of the Code.

The suppression of the financing of terrorist activities comes under that category. Article 87 *et seq.* assimilate the financing of terrorist activities to the main activity which is the terrorist act itself. The freezing of assets in the case of suspicion, the seizure of funds and confiscation are part of the preventive and suppressive measures against terrorist activities. This legal provision for the suppression of the financing of terrorist acts is supplemented by Executive Decree 02-127 of 7 April 2002 establishing a Financial Information Processing Unit. The mission of this new structure is to freeze the assets of terrorist individuals, groups or organizations. The procedure is that the Unit receives statements on suspicious facts from banking establishments and other financial structures. The Unit proceeds legally and on that basis to freeze assets and orders an investigation to verify the origin and purpose of the money.

Where there is evidence of the financing of terrorist activities or proof of the origin of funds for such activities, the file is transmitted to the courts which alone are empowered to make a legal ruling on the matter.

Can funds of non-residents held in Algerian banks and linked to the financing of terrorism outside Algeria be frozen at the request of another State?

In accordance with the procedures governing the activities of the Unit and in the context of international cooperation on counter-terrorism, Algeria has constantly been calling for the establishment of cooperation on the suppression of terrorist financing and on counter-terrorism.

For this reason, the Financial Information Processing Unit, which is legally empowered to freeze funds intended for the financing of terrorism is competent to entertain requests for such action made by foreign entities.

1.2 Legal and administrative arrangements for the registration of charitable organizations, the auditing of their accounts and monitoring of the use of their financial assets with a view to ensuring that they are not diverted, in particular to terrorist acts either inside or outside Algeria

Article 41 of the Algerian Constitution guarantees the freedom of expression, association and assembly for all citizens. Article 43 guarantees specifically "the right to create associations".

The law on associations specifies the conditions for the creation, organization and operation of associations. Respect for the law, public order and the smooth functioning of institutions are the primary conditions for engaging in the declared activities of associations.

Charitable associations have an important social role to play. The organization of fund-raising is governed by a special procedure under Algerian regulations.

Any association that sets up a specific programme may engage in fund-raising. Such fund-raising is conducted after written authorization has been given by the competent authorities with authority to control the use and purpose of funds. The funds are deposited in a bank account of the association the transactions of which are recorded by the banks themselves.

Any breach of the law is subject to penalties. In the event of any breach of regulations, including those relating to currency exchange and transfer, approval is withdrawn and a prosecution is instituted in accordance with the provisions of the Penal Code on terrorist activities

1.3 Nature of the obligation imposed on financial institutions engaged in financial transactions to report suspicious financial transactions

Under article 18 of the International Convention for the Suppression of the Financing of Terrorism, banks and public and private financial institutions are required to declare all suspicious transactions as well as doubtful deposits and transfers. Such declarations are transmitted to the Unit which immediately proceeds to freeze the assets in question.

The Finance Act 2003 provides for the lifting of bank secrecy and professional secrecy. It obliges intermediaries that are authorized to engage in banking operations to notify instances of doubtful operations to the Unit.

1.4 Description of the Financial Information Processing Unit

The Unit is described in the national report on the implementation of Security Council resolution 1455 (2003), a copy of which is annexed in accordance with the request of the Counter-Terrorism Committee.

1.5 Algeria's proposal for setting up mechanisms for collaboration, information exchange and cooperation in combating terrorism

Algeria attaches particular importance to the strengthening of international cooperation to combat transnational terrorist networks. The exchange of data and information, technical assistance and training, the acquisition of operational means

of countering individuals and terrorist groups, the suppression of the financing of terrorist activities and the bringing to justice of individuals involved in terrorist acts are part of the strengthening of the worldwide undertaking to combat that threat to peace and the security of States.

During consultations with all its partners, Algeria called for the strengthening of bilateral cooperation and the establishment of appropriate mechanisms to ensure the effectiveness of cooperation in counter-terrorism. Those mechanisms have not yet been formally set up but regular consultations are held with partner countries.

The partners with which discussions to that effect have been held are as follows: Austria, Belgium, Canada, China, Denmark, France, Germany, India, Ireland, the Islamic Republic of Iran, Italy, Malaysia, Singapore, Spain, Sweden, Thailand, Turkey, the United Kingdom, the United States of America and Uzbekistan.

With respect to the accessibility of such arrangements to other countries, Algeria is ready to engage in discussions with all its partners to strengthen cooperation and remains open to the consideration of any proposal to that end.

1.6 Update concerning the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf

Algeria has ratified all United Nations counter-terrorism conventions. The Protocol concerning fixed platforms on the continental shelf is currently being studied.

1.7 How does Algeria deal with requests for extradition where a fugitive found in Algerian territory is wanted for crimes for which sentence has not yet been passed in absentia, and where the fugitive can be prosecuted only after extradition to the country making the request?

Requests for extradition coming from judicial authorities abroad are covered in Algerian legislation by at least 27 articles in the Code of Criminal Procedure concerning, respectively, conditions for extradition (articles 694-701), extradition procedure (articles 702-713), the effects of extradition (articles 714-718), transit (article 719) and objects seized (article 720).

The provisions apply to any extradition request coming from a third country, whether or not there is in existence a bilateral judicial convention.

Thus, article 695 of the Code of Criminal Procedure provides that no person who has not been the subject of a criminal prosecution or been sentenced for a scheduled offence can be handed over to a foreign Government.

Article 698 provides that extradition is not granted where the individual who is the subject of the request is of Algerian nationality, on the understanding that such status is determined by the date of the offence in respect of which the extradition is requested.

However, it should be emphasized that, in accordance with bilateral judicial conventions, Algeria undertakes to prosecute its own nationals at the request of the State requesting extradition.

The principle of "prosecute or extradite" is moreover enshrined in Algerian legislation. Articles 582 to 589 of the Code of Criminal Procedure confer

jurisdiction on Algerian courts to try any Algerian for a crime or offence committed abroad under specified conditions and on the basis of an official indictment procedure.

It is therefore clear that requests for extradition of any fugitive are handled in the same way, whether the person concerned is being prosecuted but has not yet been tried or has been sentenced in absentia by a court of summary jurisdiction or a criminal court.

In other words, the status of the proceedings instituted against the person who is the subject of a request for extradition does not prevent the consideration of the request for extradition in the same manner and under the same conditions.

Implementation by Algeria of the provisions relating to crimes and offences set forth in international conventions on terrorism

The Algerian Constitution specifically provides for the comprehensive implementation and total integration in national legislation of any ratified international legal instrument.

The international conventions ratified by Algeria which set out the conditions for the characterization of crimes and offences and the corresponding penalties are automatically incorporated into the corpus of domestic legislation and are ipso facto applicable.

1.8 Outline explanation of the organization of institutions responsible for implementing United Nations resolutions on terrorism

An Adviser to the President of the Republic is responsible, in conjunction with the services and administrations concerned, for ensuring coordination of Algeria's action abroad with respect to counter-terrorism and related security issues.

1.9 Request for copies of other reports to be sent to the Counter-Terrorism Committee

Copies of national reports on the implementation of Security Council resolutions 1373 (2001), 1390 (2002) and 1455 (2003) are attached to this questionnaire.

II. Assistance and guidance

2.1 Areas in which assistance or advice might be helpful in the implementation by Algeria of Security Council resolution 1373 (2001)

Algeria requests assistance with respect to the exchange of data and information on terrorist networks and groups, the training of magistrates, the acquisition of specific equipment essential in combating terrorism, and the promotion of the African centre for terrorism studies and research established in Algiers by the African Union.